

Agenda Item	
A-1	<p>Wishing to be heard during the Open Comment Period was James Thompson, 704 Fifth Street S.W. Mr. Thompson is one block from the Edison School Building and the Mayo Foundation House. Mr. Thompson expressed his displeasure at the loud explosions at the Honkers game in connection with the fireworks that are used at the end of the first game and last game of the seasons. He said that the noise is extremely loud and disturbing to the neighbors and noted that there is a nursing home located in his neighborhood which has to be very disturbing to them.</p> <p>President Hunziker indicated that they will pass on the information to the Park Department and ask that the Park Board consider the situation.</p>
B-1	<p>President John Hunziker called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Dennis Hanson, Marcia Marcoux, Jean McConnell, Sandra Means, Bob Nowicki, Walter Stobaugh. Absent: None. Also present Mayor Ardell F. Brede.</p>
D-1-35	<p>Councilmembers Hanson moved, Nowicki seconded, to approve the following consent agenda items.</p>
D-1	<p>Approved the minutes of the July 19 and August 2, 2004, Council meetings.</p>
D-2	<p>Approved the appointment of Eric Westra to the Rochester Civic Music Board for the term running to December 2007.</p>
D-3	<p>See at end of D Items.</p>
D-4	<p>Withdrawn from Agenda.</p>
D-5	<p>Adopted Resolution No. 388-04 approving the purchase of a High Speed Runway Broom Truck for the Rochester International Airport in the amount of \$432,938.48 from MacQueen Equipment and Resolution No. 389-04 entering into an agreement with the State of Minnesota for 70 percent of the cost.</p>
D-6	<p>Adopted Resolution No. 390-04 entering into a professional services agreement with ACSG, Inc. for services related to NAVAIDS for Project No. J-6971 "Extension of Runway 13-31".</p>
D-7	<p>See at end of D Items.</p>
D-8	<p>Approved amending RCO Chapter 112 to reflect a "permit" as the proof of approved registration of door-to-door salespersons and instructed the City Attorney to prepare the required ordinance for adoption.</p>
D-9	<p>Approved the appointment of election judges for the September 14, 2004, Federal Primary Election.</p>
D-10	<p>Approved the following licenses and miscellaneous activities:</p>

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GAMBLING – TEMPORARY

Rochester Ducks Unlimited – Raffle at Best Western Apache – September 9, 2004.

Bearcreek Longbeards Chapter, Kasson – Raffle at Elks Lodge #1091 – September 18, 2004

Season's Hospice – Raffle – Olmsted County Fairgrounds – October 2, 2004.

LIQUOR – ON SALE TEMPORARY

Hiawatha Homes Foundation – Wine Tasting Event at Kahler Grand Hotel – October 1, 2004.

HEATING CONTRACTOR

Northern Air Corporation, Little Canada

MASTER INSTALLER

Terry Gaetke, St. Paul

SEWERS AND DRAINS INSTALLATION

Ryan Mechanical, Red Wing

SIDEWALKS, CURBS/GUTTERS/ DRIVEWAYS

Steve Morris Construction, Inc., Kasson

SIGNS

Nienela's Signs & Graphics, Burnsville

SOUND AMPLIFICATION

Darren Groteboer – Backyard Party with Band at 3110 Salem Point Drive S.W. – August 14, 2004 – 6:30 to 11:00 PM (Prior Approvals: Hunziker, Nowicki, Means)

Home Federal Savings Bank – Company Picnic – Essex Park – August 21, 2004 – 12 Noon to 8:00 PM

Alzheimer's Association – Memory Walk – August 28, 2004 – 9:00 AM to 1:00 PM

MISCELLANEOUS

Tom Evans – Block Party at 700 Block of 7<sup>th</sup> Street SW – August 28, 2004  
Camp Companion Animal Sanctuary – 5K Road Race – August 28, 2004 –

9:00 to 10:00 AM

Mayo Clinic – Mayo United Way Kickoff – September 10, 2004 – 11:00 AM to 1:00 PM

Mayo Clinic – Mayo Heritage Day Ice Cream Social – October 7, 2004 – 2:00 to 4:00 PM

Mayo Clinic – Mayo Dedication of Statuary Park – October 4, 2004

Alzheimer's Association – Memory Walk – August 28, 2004 – 9:00 AM to 1:00 PM

Amy Kunkel – Block Party at 827 24<sup>th</sup> Street SE – September 6, 2004 – 2:00 to 8:00 PM

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	<p style="text-align: center;">Downtown Business Association – Extension of Street Market on 1<sup>st</sup> Avenue SW near Peace Plaza – August 26, September 2, 9, 16, 23 and 30 – 12 Noon to 6:00 PM</p> <p style="text-align: center;">Stop Planned Parenthood of Olmsted County and Resurrection Church – Special Pro-Life March – September 17, 2004 – 1:00 to 2:00 PM</p>
D-11	Approved the transfer of the Off-Sale Intoxicating Liquor License from MGM Wine & Spirits, Inc. to Hy-Vee, Inc. DBA Hy-Vee Wine & Spirits.
D-12	Adopted Resolution No. 391-04 approving contracts for investment services with MBIA Asset Management Group.
D-13	Approved Accounts Payable in the amount of \$4,845,251.69.
D-14	Adopted Resolution No. 392-04 approving the City Administrator to sign the Administrative Services Agreement with Corporate Benefit Services of America, Inc. to administer the health and dental plans and approve the excess risk insurance contract with Highmark Life Insurance Company.
D-15	Adopted Resolution No. 393-04 authorizing the interest rate on non-WQPP (Water Quality Protection Programs) development charge assessments to be set at 6 percent effective August 16, 2004 with the next review on August 1, 2005.
D-16	Adopted Resolution No. 394-04 approving the revised City Personnel Policy titled Disciplinary Action.
D-17	Accepted the donation of a refrigerator, valued at \$200, from Ms. Helene Spiece for the Rochester Police Department for use by its employees.
D-18	Accepted a \$200 donation from Zumbro Auxiliary #2228 fraternal Order of Eagles for Police Honor Guard uniforms/equipment.
D-19	Accepted a donation of \$63.13 from Minnesota 5 <sup>th</sup> District Auxiliary Fraternal Order of Eagles for Police Honor Guard uniforms/equipment.
D-20	Adopted Resolution No. 395-04 approving application and acceptance of a grant in the amount of \$1,500 from the Olmsted County Public Health Service for traffic safety initiatives for certain projects.
D-21	Adopted Resolution No. 396-04 approving the Rochester Public Works Department Encroachment Policy, the associated encroachment notification and permit application procedures and fees.
D-22	<p>Adopted Resolution No. 397-04 amending the Comprehensive Parking and Traffic Resolutions Book to:</p> <p>Add Paragraph 22.1 to Section 1, Zone C – 30 Minute Meters so as to read:            (22.1) 3<sup>rd</sup> Avenue SW on the west side from 1<sup>st</sup> Street to 2<sup>nd</sup> Street SW, space numbers 73-8 through 73-12.</p>

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	<p>Amend Paragraph 24.2 of Section I, Zone C – 30 Minute Meters so as to read: (24.2) 4<sup>th</sup> Avenue SW on the west side from 1<sup>st</sup> Street to 2<sup>nd</sup> Street SW, space numbers 74-0 through 74-9.</p>
	<p>Amend Paragraph 23 of Section I, Zone C – 30 Minute Meters so as to read: (23) 4<sup>th</sup> Avenue SW on the east side from a point approximately 80 feet south of 1<sup>st</sup> Street to 2<sup>nd</sup> Street SW, space numbers 73-50 through 73-53.</p>
D-23	<p>Adopted Resolution No. 398-04 and 399-04 authorizing the submission of an application and acceptance of grant for Regular Route Operations and Dial-A-Ride Operations for 2005 State Transit Assistance.</p>
D-24	<p>Adopted Resolution No. 400-04 awarding the contract for Project No. SW-M201 (J-4001) "Rocky Creek Stabilization in the Vicinity of Cheval Lane N.E." to Elcor Construction in the amount of \$206,820.00.</p>
D-25	<p>Adopted Resolution No. 401-04 approving a Construction Engineering Service Agreement with WHKS &amp; Company for Project No. M4-11 (J-7726) "Sanitary Sewer and Watermain Extension to Serve the South Frontage Road of TH14 East from the Knights of Columbus Easterly to the Hundred Acre Woods Development".</p>
D-26	<p>Adopted Resolution No. 402-04 awarding the contract to Winona Mechanical in the amount of \$92,015.50 for Project No. M4-11 (J-7726) "Sanitary Sewer and Watermain Extension to Serve the South Frontage Road of TH14 East from the Knights of Columbus Easterly to the Hundred Acre Woods Development".</p>
D-27	<p>Adopted Resolution No. 403-04 authorizing execution of a Pedestrian Facilities Agreement with Jordan Realty Corporation, Inc. for part of Lot 3, Rochester Shopping Center Addition, for PUD Amendment #04-01 (Krispy Kreme)</p>
D-28	<p>Adopted Resolution No. 404-04 authorizing execution of a Pedestrian Facilities Agreement with Southeast Minnesota Association of Realtors, Inc. for Lot 1, Block 1, Bielenberg and Giese First Addition.</p>
D-29	<p>Adopted Resolution No. 405-04 authorizing execution of a Pedestrian Facilities Agreement with Bruce A. Weidner &amp; Kathleen A. Weidner for that part of the NW ¼ of Section 23, Township 107 North, Range 14 West, being platted as Weidner Subdivision.</p>
D-30	<p>Adopted Resolution No. 406-04 authorizing execution of a Pedestrian Facilities Agreement with Dan Holter &amp; Clavonne Holter for the TH 52 East Frontage Road frontage of Lot 17, Allendale Subdivision.</p>
D-31	<p>Adopted Resolution No. 407-04 authorizing execution of a Pedestrian Facilities Agreement with David L. Stewart &amp; Gladys M. Stewart for Lot 4, Block 4, Rose Harbor Fourth Subdivision.</p>

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D-32	<p>Adopted Resolution No. 408-04 authorizing execution of a Pedestrian Facilities Agreement with Lloyd P. Johnson &amp; Bonita K. Johnson for part of the Southeast Quarter of Section 10, Township 106 North, Range 14 West.</p>
D-33	<p>Adopted Resolution No. 409-04 authorizing payment of Supplemental Agreement #9 to MnDot for \$65,821.39 for Project No. J-2269 "Highway 63 South/ 48<sup>th</sup> Street and St. Bridgets Road" as a part of the Municipal Cost Share Agreement.</p>
D-34	<p>Adopted Resolution No. 409A-04 awarding the contract to Road Constructors, Inc. in the amount of \$709,169.40 for Project Nos. M3-34 (J-6004) , M3-29 (J-7222), and M4-19 (J-7225) "Traffic Signal System Roadway Improvements - CSAH 22 (55<sup>th</sup> Street NW) at Chateau Road NW/Northwest Plaza Entrance" and adopted Resolution No. 410-04 setting a hearing on September 8, 2004, to consider Project No. J-6004 "Traffic Signal System, 55<sup>th</sup> Street NW (CSAH 22) at Chateau Road NW" and Resolution Nos. 410A-04 and 410B-04 setting an assessment hearing on September 8, 2004 for the project.</p>
D-35	<p>Adopted Resolution No. 411-04 approving an agreement between the City of Rochester and the Minnesota Pollution Control Agency whereas the City agrees to pay for an expedited design review for the 2004 Influent Pump Station Substructure and the 2004 Plant Expansion Projects for a cost not to exceed \$6000 without further authorization by the City.</p> <p>Ayes (7), Nays (0). Motion carried.</p>
D-3	<p>Councilmember Marcoux noted that the various options were discussed at the Committee of the Whole earlier in the day. She said it was the consensus of the Council that the reduced area, know as the 10-year storm plan for berm design in the Manorwood Lake be approved. She thanked all of the neighbors who participated in the option planning and deciding on something workable to them. This plan keeps Cascade Creek separated from Manorwoods Lake until a certain level of rain to help the water quality and keeps the Cascade Lake a good usable area for the general area.</p> <p>Councilmembers Marcoux moved, Stobaugh seconded, to adopt Resolution No. 412-04 approving the 10-year storm plan for the Cascade Lake Physical Layout Plan. Ayes (7), Nays (0). Motion carried.</p>
D-7	<p>Councilmember Means asked for clarification from the City Attorney to assure the Council that the right to demonstrate or freedom of speech will not be deterred by this ordinance.</p> <p>Terry Adkins, City Attorney, said that the proposed ordinance is patterned after the Kansas City ordinance previously upheld in the Eighth Circuit Court of Appeals that did not prevent demonstrators from having their say on a subject but was designed to keep traffic moving and to prevent needless distractions for motorists. There is nothing in the ordinance that would approve or disapprove content for demonstrators. The federal court ruled that this ordinance did not violate the right to free speech.</p>

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	<p>Councilmembers Means moved, Nowicki seconded to approved the Obstruction of Public Thoroughfare ordinance and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
E-1	<p>A Continued Hearing on Sewer Rates and Plant Investment Fees for 2004-2009.</p> <p>Councilmembers Hanson moved, McConnell seconded, to continue the Public Hearing to the September 8, 2004, Council meeting at which time a resolution will be adopted establishing Sewer Rates and Plant Investment Fees for 2004-2009 with sewer rates in effect September 2004 reflected on October 2004 billings and Plant Investment Fee would be effective for all new connections after January 1, 2005. Ayes (7), Nays (0). Motion carried.</p>
E-2	<p>A Hearing to Consider the Issuance of Revenue Bonds for the City of Chatfield through the City of Rochester.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Marcoux moved, Hanson seconded, to adopt Resolution No. 413-04 Issuing Revenue Bonds by the City of Chatfield to finance improvements to the existing facilities of Olmsted Medical Center located in the City of Rochester. Ayes (7), Nays (0). Motion carried.</p>
E-3	<p>A Hearing on a Petition by the Mayo Foundation to amend Chapter 64D, Ordinance #2726, Mayo Clinic Medical Institutional Campus Special District #3 to remove a portion of the East Medical Transition Sub-district from the special district.</p> <p>Wishing to be heard was Jack Jibbin, 5970 Portsmouth Drive N.W., representative of the Mayo Clinic. He asked that the Council support removing a portion of the Transition Sub-district from the special district to allow for expansion of three additional floors on the building at Third Avenue and Second Street S.W. The three additional floors would be used for the Genomics Research by the University of Minnesota once the Governor's bonding bill is approved.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Hanson moved, Nowicki seconded, to approve an amendment to Chapter 64D, Ordinance #2726, Mayo Clinic Medical Institutional Campus Special District #3 to remove a portion of the East Medical Transition Sub-district from the special district and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p> <p>Councilmember Stobaugh noted his working relationship with the Mayo Foundation.</p>
E-4	<p>A Hearing on Amendment to Incentive Development Conditional Use Permit #98-29 by the Mayo Foundation to add three levels and a penthouse to the Stabile Building for the Minnesota Partnership for Biotechnology and Medical Genomics on property located south of Third Street S.W. and east of Second Avenue S.W.</p>

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E-5	<p>Wishing to be heard was Jack Jibbin, 5970 Portsmouth Drive N.W., representative of the Mayo Clinic. Mr. Jibbin said that the Stabile Building was originally built with ten-stories but is capable of supporting an additional three stories. The three additional floors would be used for the Genomics Research by the University of Minnesota once the Governor's bonding bill is approved. The project will be to encourage the joint relationship of the University of Minnesota and Mayo</p> <p>Wishing to be heard was Mark Bossert, 10615 167<sup>th</sup> Street, North Branch, Minnesota. He is an architect with RSP Architects in Minneapolis. Mr. Bossert gave an overview of the building in its present form and what it will look like with the three additional stories.</p> <p>Wishing to be heard was Jack Jibbin, 5970 Portsmouth Drive N.W., representative of the Mayo Clinic. Mr. Jibbin noted his approval of the two conditions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Marcoux moved, Hanson seconded, to adopt Resolution No. 414-04 approving an Amendment to Incentive Development Conditional Use Permit #98-29 by the Mayo Foundation with two conditions. Ayes (7), Nays (0). Motion carried.</p> <p>Councilmember Stobaugh noted his working relationship with the Mayo Foundation.</p> <p>A Hearing on Zoning District Amendment #04-13 by Weis Development Corporation to rezone land from B-5 to R-3 located along the south side of 55<sup>th</sup> Street N.W., north of Georgetown Drive N.W., and</p> <p>A Hearing on General Development Plan #242 to be known as Georgetowne Square Apartment Community by Weis Development Corporation located along the south side of 55<sup>th</sup> Street N.W., north of Georgetown Drive N.W.</p> <p>Testimony given will pertain to items E-5 and E-6.</p> <p>Wishing to be heard was Travis Tegethoff, Yaggy-Colby, representing the developer. He noted agreement with the staff recommendations and three conditions.</p> <p>Councilmember McConnell said that east of Georgetowne is a large swale containing water. He asked if the water would be removed.</p> <p>Wishing to be heard was Travis Tegethoff, Yaggy-Colby. He said that the area is a part of the planning phase. The area will probably be drained and an easement secured to come across the area.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stobaugh moved, Nowicki seconded, to approve Zoning District Amendment #04-13 and General Development Plan #242 to be known as</p>

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	<p>Georgetowne Square Apartment Community by Weis Development Corporation with three conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order and the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
E-6	<p>A Hearing on General Development Plan #242 to be known as Georgetowne Square Apartment Community by Weis Development Corporation located along the south side of 55<sup>th</sup> Street N.W., north of Georgetown Drive N.W.</p> <p>Testimony and approvals were taken with Item E-5.</p>
E-7	<p>A Hearing on Land Subdivision Permit #04-24 by GP Development LLC to be known as Fieldstone Second including a Design Modification #04-06 on property located west of 18<sup>th</sup> Avenue SW, north of the Hart Farm Development and allows for the continuation of Weston Place S.W. and Fieldstone Road S.W.</p> <p>Wishing to be heard was Andy Masterpole, McGhie &amp; Betts, representing the developer. Mr. Masterpole noted their agreement with the four conditions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Hanson moved, Marcoux seconded, to approve Land Subdivision Permit #04-24 by GP Development LLC to be known as Fieldstone Second, including a Design Modification #04-06, with four conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p>
E-8	<p>A Hearing on Land Subdivision Permit #04-25 by Willow Creek Commons LLC to be known as Willow Creek Commons located along the west side of TH63 and along the south side of 40<sup>th</sup> Street S.W.</p> <p>Wishing to be heard was Michele Caron, RLK-Kuusisto Ltd., Minnetonka, consultant for the developer. Ms. Caron noted that they were in agreement with the 11 conditions and the additional condition which read: "The alignment of the frontage shall be realigned at the southerly end of the property so that it aligns with the approved roadway alignment on West 80 preliminary plat or the property owner and the adjacent property owner may agree on a different alignment. Any such alignment must be reviewed and approved by the City Public Works Department".</p> <p>Wishing to be heard was Roger Carlsen, 4410 19<sup>th</sup> Street N.W., developer of the West 80 development. Prior to submission of the preliminary plat plan, the frontage road was approximately 300 feet from the property line. In discussions with the developer of Willow Creek Commons, Frank Kottschade, Mr. Carlsen noted that he would like the road moved closer to TH63. Mr. Carlsen said that he had an agreement with Mr. Kottschade that he would provide fill for the Willow Creek Commons site in exchange for grading on the Kottschade property. When the preliminary plat plan was submitted, the road was shown meeting the Kottschade property along TH63. Since that time, Mr. Kottschade no longer needs the fill due to a different alignment of TH63 by MnDot and will not allow Mr. Carlsen to grade</p>

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	<p>on his property to make the property line contiguous. Mr. Carlsen asked that the frontage road be moved back to the original location shown on his general development plan which makes for a shorter roadway for them for his development.</p> <p>Mitzi Baker, Planning Department, said that the Kottschade development has to be platted consistent with what is on the Carlsen preliminary plat. If there is a mutually agreed upon new alignment, the City would need to respond to that.</p> <p>Wishing to be heard was Frank Kottschade, 4719 Warwick Lane N.W. Mr. Kottschade said that in 1995 he brought his property forward for development. At that time, the former owner of the Carlsen property said that the property would never be zoned for residential. It was rezoned industrial. At the same time, MnDot showed the frontage road at a location further to the west. The alignment of TH63 was moved further easterly at the request of another property owner. Mr. Kottschade said that he would be willing to look at the situation to help resolve the issue but it may be more costly.</p> <p>Wishing to be heard was John Jensen, 3800 Simpson Road S.E. Mr. Jensen is also a representative of the West 80 Development. He asked that the Council not approve the Willow Creek Commons development until the property owners in question have had an opportunity to work out an agreement to move the frontage alignment closer to the West 80 Development.</p> <p>Terry Adkins, City Attorney, said that Condition #12 states that the roadway will align with the West 80 preliminary plat unless the owners agree on a different alignment.</p> <p>Mitzi Baker, Planning Department, said that if a different alignment is agreed upon, the owners of the West 80 Development can file a revised Preliminary Plat for approval. Official Street Map #12 was shown to the Council to show the alignment of the roadway with the preliminary plat from Roger Carlsen.</p> <p>Councilmembers Hanson moved, Means seconded, to continue Land Subdivision Permit #04-25 by Willow Creek Commons LLC to be known as Willow Creek Commons to September 8, 2004, to allow time for the developers to work out an agreement on the alignment of the roadway. Ayes (7), Nays (0). Motion carried.</p>
E-9	<p>A Hearing on Final Plat #03-36 by Roger Carlsen to be known as Fox Trails located north of 19<sup>th</sup> Street N.W., south of the Badger Ridge Development, east of the former 50<sup>th</sup> Avenue right-of-way and west of West Circle Drive.</p> <p>Councilmembers Nowicki moved, Marcoux seconded, to continue the hearing on Final Plat #03-36 by Roger Carlsen to be known as Fox Trails to August 30, 2004. Ayes (7), Nays (0). Motion carried.</p>
E-10	<p>A Hearing on Final Plat #04-06 by Forbrook-Bigelow Development to be known as Whispering Oaks located along the east side of West Circle Drive and along the south side of 7<sup>th</sup> Street and allows the continuation of Lakeridge Place N.W. to 7<sup>th</sup> Street N.W.</p>

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Wishing to be heard was Andy Masterpole, McGhie & Betts, representing the developer. He noted that Conditions #3 should be amended. The parkland dedication fee has a discrepancy between the fair market value of the land and the development agreement which stated \$24,000 per acre; the memo from the Park Department said \$30,000 per acre. Mike Nigbur, Public Works Department, agreed that the land value should be \$24,000 per acre. The amount due would be \$28,800 rather than \$36,000. Mr. Masterpole noted their agreement with the remainder of the conditions.

Councilmember Marcoux asked Mr. Masterpole if he was aware of the concern of people living on 7<sup>th</sup> Street and Lakewood Drive about drainage issues. Residents are already having problems and want to make sure that any drainage is directed away from those neighborhoods.

Wishing to be heard was Paul Cain, 3317 Lake Street N.W. He said that when the first plat was approved, there was talk about minimal tree clearance. The area was cleared and the area does slope down the hill. He wanted assurance that the tree line would remain as is to prevent further drainage problems. Mr. Cain said that there has also been dynamiting with no notification ahead of time to residents.

Wishing to be heard was Andy Masterpole, McGhie & Betts. He said that the trees left are meant to be preserved. The treed area is fenced for protection. The dynamiting was necessary in the private road and to install the utilities and is completed.

Wishing to be heard was Harvey Swanson, 3415 Seventh Street N.W. He noted that he lives across the street from Outlot C. There was to be a large pond near the location as well. The last plan showed three lots where the pond was. When asked, the developers said that there was a large pipe under the road that would be used instead. If there is a bad winter or heavy rain, all the water from the hill and roadway will come down where the houses are. Can't a larger drain pipe be used to take care of the runoff and now have the pond?

Wishing to be heard was Andy Masterpole, McGhie & Betts. Mr. Masterpole said that they would prefer not to have the pond but based on the possible drainage and size of the pipe, it is required that a deep hole be dug for the water to be retained until it can be drained through the pipe. The developer would prefer to have the lot.

Doug Nelson, Public Works Department, said that water will not sit in the area; most of the time it will be a dry basin. The basin requirement is a federal and state regulation. The pond could be in a different part of the development but this is where the developer wanted it.

Wishing to be heard was Harvey Swanson, 3415 Seventh Street N.W. Mr. Swanson said that the pond shouldn't be allowed there. The water hole is a menace and may not remain dry. Then there are children that would want to play on it, weeds around it and geese on it. If fenced, Mr. Swanson said that he would look out his dining room window and see the fence.

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	<p>Wishing to be heard was Eric Alter, 3330 Lakeridge Drive N.W. Mr. Alter was also concerned about the holding pond and asked what was going to happen to the road. Will the road be moved or stay?</p> <p>Wishing to be heard was Andy Masterpole, McGhie &amp; Betts. In addition to the pond being located where it is, one owner wants the road alignment to stay where it is. The road will stay but the grade will be steeper in one part because they were unable to reach an agreement for grading from that owner.</p> <p>Wishing to be heard was Ward Opitz, 5955 118<sup>th</sup> Avenue N.W., Byron, with Bigelow Enterprises. Their consultant assured them that, with the three houses shown on the plat, with the pipes located where they are, there would be adequate drainage with no ponds required. After submission of the plat, the land owner, previously discussed by Mr. Masterpole, insisted that there be a pond because of potential runoff. The pond will take the risk out of any flooding and is probably oversized.</p> <p>Wishing to be heard was Harvey Swanson, 3415 Seventh Street N.W. He noted that the pond filled with dirt and rocks and will need to be dug out. The current rains cause the pond to almost fill. The road should be reconstructed, and the pipe in the road replaced with a large pipe to contain the drainage, and forget the pond.</p> <p>Councilmember Marcoux said that it is her understanding that if the engineering study comes back with another recommendation for the pond, Public Works can internally make the change. She asked that a condition be added as Condition #7 requesting the Public Works Department to study the problem further.</p> <p>The condition was accepted by the developers.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Marcoux moved, McConnell seconded, to adopt Resolution No. 415-04 approving Final Plat #04-06 by Forbrook-Bigelow Development to be known as Whispering Oaks with six conditions and adding Condition #7 requiring the Public Works Department to continue studying the water drainage problem and amending Condition #3 on the land value. Ayes (7), Nays (0). Motion carried.</p>
E-11	<p>A Hearing on Final Plat #04-16 by Arcon Development Inc. to be known as Shannon Oaks Second Subdivision located south of 21<sup>st</sup> Street N.E., east of the Century Hills Development and allows for the continuation of Galway Lane N.E.</p> <p>Wishing to be heard was Travis Tegethoff, Yaggy-Colby, representing the developer. Mr. Tegethoff said that they were in agreement with the three conditions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Nowicki moved, Marcoux seconded, to adopt Resolution No. 416-04 approving Final Plat #04-16 by Arcon Development Inc. to be known as Shannon Oaks Second Subdivision with three conditions. Ayes (7), Nays (0). Motion carried.</p>

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E-12	<p>A Hearing to Consider if Parcels of Land Recently Annexed to the City of Rochester Should be Included in the Rural Service District established by Ordinance 1466.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stobaugh moved, Marcoux seconded, to adopt Resolution No. 417-04 approving Parcels of Land Recently Annexed to the City of Rochester to be included in the Rural Service District and instructed the City Attorney to prepare the required Ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
F-1	<p>Councilmembers Hanson moved, Nowicki seconded, to adopt Resolution No. 418-04 approving the execution of the Settlement Agreement and Release of Claims with Tyler Maas. Ayes (7), Nays (0). Motion carried.</p>
F-2	<p>Councilmembers Stobaugh moved, Hanson seconded, to adopt Resolution No. 419-04 making a negative declaration on the need for an Environmental Impact Study for Autumn Woods RV Park development. Ayes (7), Nays (0). Motion carried.</p>
G-2a	<p>An Ordinance Amending and Reenacting Section 73.04 of the Rochester Code of Ordinances, Relating to Obstruction of Public Thoroughfares in the City of Rochester, was given a first reading.</p>
G-2b	<p>An Ordinance Amending and Reenacting Sections 112.02 and 112.05 of the Rochester Code of Ordinances, Relating to a Door-To-Door Salesperson Permit, was given a first reading.</p>
G-2c	<p>An Ordinance Amending and Reenacting Subdivision 2 of Section 64D.200 of the Rochester Code of Ordinances, Relating to the Legal Description for the Land Covered by the Mayo Clinic Medical Institutional Campus Special District #3, was given a first reading.</p>
G-2d	<p>An Ordinance Rezoning Approximately 2.89 Acres of Property From the B-5 Zoning District to the R-3 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a first reading. (Zoning Dist Amendment #04-13 – located along the south side of 55<sup>th</sup> Street NW, north of Georgetown Drive NW)</p>
G-2e	<p>An Ordinance Amending and Reenacting Ordinance No. 1466, Relating to the Designation of Certain Lands in the City of Rochester as Part of the Rural Service District, was given a first reading.</p> <p>Councilmembers Marcoux moved, McConnell seconded, to suspend the rules and give the Ordinance a second reading. Ayes (7), Nays (0). Motion carried. The Ordinance was given a second reading. Councilmembers Marcoux moved, Stobaugh seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried.</p>

Agenda Item	
G-3a	<p>An Ordinance Rezoning Approximately 23.90 acres of Property from the R-1 Zoning District to the B-4 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a second reading. Councilmembers moved, seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Zoning District Amendment #04-12 – Property located south of 41<sup>st</sup> Street NW, east of West Circle Drive NW, north end of the 40<sup>th</sup> Avenue Cul-de-sac)</p>
G-3b	<p>An Ordinance Rezoning Approximately 23.90 Acres of Property From the R-1 Zoning District to the B-4 Zoning District and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a second reading. Councilmembers moved, seconded, to adopt the Ordinance as read. (Ayes (7), Nays (0). Motion carried. (Zoning District Amendment #04-06 – Property located south of 48<sup>th</sup> Street SW, west of Highway 63, and east of Southern Woods Development)</p>
J-1	<p>Having no further business, Councilmembers Marcoux moved, McConnell seconded, to recess the meeting to 4:15 P.M. on August 30, 2004. Ayes (7), Nays (0). Motion carried.</p>



City Clerk